

EXHIBIT A

FILED WITH REDACTIONS PURSUANT
TO DOCKET NO. 78 AND MICROSOFT'S
CONFIDENTIALTY DESIGNATIONS

C. MULLANEY-SUNDLIE CONFIDENTIAL; August 29, 2007

Page 1

1 UNITED STATES DISTRICT COURT

2 WESTERN DISTRICT OF WASHINGTON AT SEATTLE

3

4 DIANNE L. KELLEY and KENNETH)
5 HANSEN,)
6 Plaintiffs,)
7 vs.) No. C070475 MJP
8 MICROSOFT CORPORATION, a)
9 Washington corporation,)
10 Defendant.)

11 VIDEOTAPED 30(b) (6) DEPOSITION UPON ORAL EXAMINATION OF
12 MICROSOFT CORPORATION
13 CHRISTINE MULLANEY SUNDLIE
14 (CONTAINS CONFIDENTIAL TESTIMONY
15 SUBJECT TO PROTECTIVE ORDER)

16 1:52 P.M.

17 AUGUST 29, 2007

18 1001 FOURTH AVENUE, SUITE 4000
19 SEATTLE, WASHINGTON

20
21
22
23
24 REPORTED BY: JULIE R. HEAD, CRR, RPR, CCR No. 3119
25

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APPEARANCES		Page 2	INDEX		Page 4
1	FOR THE PLAINTIFFS:	1	EXAMINATION BY:	PAGE	
2	WILLIAM C. SMART	2	MR. SMART	6, 119	
3	IAN S. BIRK	3	MR. CASPER	113	
4	Keller Rohrback LLP	4			
5	1201 Third Avenue, Suite 3200	5			
6	Seattle, Washington 98101-3052	6			
7	(206)623-1900	7			
8	wsmart@kellerrohrback.com	8	EXHIBITS FOR IDENTIFICATION	PAGE	
9	lbirk@kellerrohrback.com	9	5 Microsoft Corporation Form 10-K, Commission	75	
10		10	File Number 0-14278		
11		11			
12		12			
13	FOR THE PLAINTIFFS:	13			
14	JEFFREY I. TILDEN	14			
15	MARK A. WILNER	15			
16	Gordon Tilden Thomas & Cordell LLP	16			
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23		23			
24		24			
25		25			
FOR THE DEFENDANT:		Page 3	SEATTLE, WASHINGTON; AUGUST 29, 2007		
1	CHARLES B. CASPER	1	1:52 P.M.		
2	Montgomery, McCracken, Walker & Rhoads, LLP	2	—oo—		
3	123 South Broad Street	3			
4	Philadelphia, Pennsylvania 19109	4			
5	(215)772-7223	5	THE VIDEOGRAPHER: Good afternoon. We are now		
6	ccasper@mmwr.com	6	on the record.		
7		7	Today's date is August 29th, 2007, and the		
8		8	time is now 1:52 p.m. The location of today's		
9		9	deposition is Gordon Murray Tilden — Gordon, Tilden,		
10		10	Thomas, Cordell, 1001 Fourth Avenue, Suite 4000,		
11		11	Seattle, Washington 98154.		
12		12	My name is Tania Grant, video specialist		
13		13	representing Yamaguchi, Obien & Manglo in Seattle,		
14		14	Washington. Cause number is C07-0475 MJP, entitled		
15		15	Dianne L. Kelley v Microsoft Corporation.		
16	ALSO PRESENT:	16	This is a 30(b)(6) deposition of Microsoft		
17	TANIA GRANT, Video Specialist, Yamaguchi, Obien,	17	Corporation's representative Christine Mullaney Sundlie.		
18	Manglo, LLC	18	The video deposition was requested by the		
19		19	plaintiffs' counsel with Keller Rohrback.		
20		20	Would counsel and all present please identify		
21		21	yourselfs and state whom you represent.		
22		22	MR. SMART: This is Will Smart, along with Ian		
23		23	Birk from Keller Rohrback. We represent the plaintiffs,		
24		24	along with co-counsel Mark Wilner and Jeff Tilden of		
25		25	Gordon, Thomas, Tilden.		

2 (Pages 2 to 5)

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Exhibit A Page 570 Pike Street, Suite 1320, Seattle, Washington 98101 * (206) 622-6875 * 1 (800) 831-6973

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22 Q. (BY MR. SMART:) Am I right?
23 MR. CASPER: I'm going to object. It
24 misstates the witness's testimony. You're also ignoring
25 her statement earlier that she is not an expert in this

8 (Pages 26 to 29)

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<p>1 area, and this is beyond scope of the 30(b)(6) 2 deposition — designation. 3 MR. SMART: Well, actually, it's not, because 4 I'm trying to find out exactly what records there are 5 from which one can determine the number of sales and the 6 people who bought them of various Microsoft products 7 under the Windows Vista Capable program. 8 MR. CASPER: She already answered that 9 question. 10 MR. SMART: Not fully, but, anyway. 11 Q. (BY MR. SMART:) You can go ahead, ma'am. 12 Would you like the question read back so it's fairly in 13 front of you? 14 A. Yes, please. 15 (Record read as follows: 16 17 18 19 20 REDACTED PURSUANT TO DKT. NO. 78 AND 21 MICROSOFT'S CONFIDENTIALITY DESIGNATION 22 23 24 25 </p>	<p>Page 30</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 REDACTED PURSUANT TO DKT. NO. 78 AND 15 MICROSOFT'S CONFIDENTIALITY DESIGNATION 16 17 18 19 20 21 22 23 24 25</p> <p>Page 32</p>
<p>1 2 3 4 5 6 7 8 9 10 11 12 13 REDACTED PURSUANT TO DKT. NO. 78 AND 14 MICROSOFT'S CONFIDENTIALITY DESIGNATION 15 16 17 18 19 20 21 22 23 24 25 </p>	<p>Page 31</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 REDACTED PURSUANT TO DKT. NO. 78 AND 15 MICROSOFT'S CONFIDENTIALITY DESIGNATION 16 17 18 19 20 21 22 23 24 25</p> <p>Page 33</p>

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<p>1 2 3 4 5 6 7 8 9 10 11 12 REDACTED PURSUANT TO DKT. NO. 78 AND 13 MICROSOFT'S CONFIDENTIALITY DESIGNATION 14 15 16 17 18 19 20 21 22 23 24 Q. Are there any documents that describe, either 25 in summary or detailed form, the success of the Windows</p>	<p>Page 54 1 required by the government, I am sure that our 2 executives have some report that they look at that 3 Identifies sales information to them. Whether it's 4 specific to the number and quantity of licenses sold by 5 product, I'm not certain. 6 Q. (BY MR. SMART:) Okay. So, what documents 7 exist at Microsoft that identify how many XP Home 8 licenses were sold during that time period? 9 MR. CASPER: Objection: Beyond the scope of 10 the 30(b)(6) designation. 11 A. I don't know. 12 Q. (BY MR. SMART:) Does the Microsoft database 13 contain that information? 14 A. Yes. 15 Q. Okay. And does the Microsoft database 16 information also contain the number of Express Upgrade 17 licenses that were activated after Windows Vista became 18 available? 19 A. No. 20 Q. Why not? 21 A. Because the activation database is separate 22 from the sales database, because there are two separate 23 processes as I described earlier. 24 Q. Okay. So, there's a separate database that 25 you go to to look for activations?</p>
<p>1 Vista Capable program for selling Windows XP licenses 2 prior to the Vista launch? 3 MR. CASPER: Objection: Beyond the scope of 4 the 30(b)(6) designation. 5 A. And the answer is I don't know. 6 (Mr. Tilden arrives.) 7 Q. (BY MR. SMART:) Okay. And did you look for 8 any? 9 A. No. 10 Q. What documents are there at Microsoft that 11 identify the number of XP licenses sold during the 12 Windows Vista Capable program period? 13 MR. CASPER: Objection: Asked and answered. 14 A. I already stated that the Microsoft sales 15 database contains that information. 16 Q. (BY MR. SMART:) Okay. But you have to query 17 it; is that right? 18 A. Yes, that's correct. 19 Q. Are there any reports that were sent to any 20 OEMs or any executives that compiled the numbers for 21 sales of XP licenses during that time period? 22 MR. CASPER: Objection: Beyond the scope of 23 the 30(b)(6) designation. 24 A. Given that we're a public company and we're 25 required to financially report our data in ways that are</p>	<p>Page 55 1 A. There is; however, I want to be clear, we 2 would not necessarily — I'd have — we'd have to find 3 out, but we would not necessarily be able to identify 4 activations of Express Upgrade product versus the 5 standard product because there is technically no 6 difference in the software itself. 7 Q. Give me a ballpark as to how many Windows XP 8 Home licenses were sold during the Windows Vista Capable 9 program in the United States. 10 MR. CASPER: Objection: Calling for 11 speculation; lack of foundation; beyond the scope of the 12 30(b)(6) designation. 13 Q. (BY MR. SMART:) You can go ahead and answer, 14 please. 15 A. I don't know. 16 Q. Is it more than a hundred? 17 MR. CASPER: Objection: Calling for 18 speculation. 19 A. We're a large company. I'm sure it's more 20 than a hundred. 21 Q. (BY MR. SMART:) Is it more than a thousand? 22 MR. CASPER: Objection: Calling for 23 speculation. 24 A. I could presume it's more than a thousand. 25 Q. (BY MR. SMART:) Would it be more than a</p>

15 (Pages 54 to 57)

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1 million?	1 A. No, I had no reason to ask them.
2 MR. CASPER: Objection: Calling for	2 Q. Did you ever look for any records that might
3 speculation.	3 exist at Microsoft that tracked the prices charged by
4 A. That I really don't know.	4 OEMs to consumers for Windows XP Home licenses during
5 Q. (BY MR. SMART:) And who would know the answer	5 the Windows Vista Capable program?
6 to that?	6 MR. CASPER: Objection: Misstates the
7 A. Again, we'd have to look at the Microsoft	7 witness's testimony; assumes facts not in evidence.
8 sales database.	8 A. No, I did not look for documents that would
9 Q. And the Microsoft sales database would give	9 track that information.
10 you that information?	10 Q. (BY MR. SMART:) Wouldn't that be an important
11 A. Yes.	11 thing for the marketing department to know?
12 Q. What was the average cost of an XP Home	12 MR. CASPER: Objection: No foundation; beyond
13 license during the Windows Vista Capable program?	13 the 30(b)(6) designation; calling for speculation.
14 MR. CASPER: Objection. No foundation, beyond	14 A. No, it would not be important for the
15 the scope of the 30(b)(6) designation.	15 marketing organization to know.
16 A. In terms of cost, I'm not sure whether you're	16 Q. (BY MR. SMART:) Who is in charge of documents
17 referring to the price that Microsoft charged its	17 reflecting communications between Microsoft and computer
18 retailers or distributors or OEMs or the cost that the	18 manufacturers regarding the Microsoft Windows Vista
19 customer would be presumed to pay.	19 Capable sticker program?
20 Q. (BY MR. SMART:) Sure, that's a fair question.	20 A. The OEM division would be responsible for
21 What was the cost that Microsoft charged the	21 those documents.
22 OEMs?	22 Q. And what documents exist relating to such
23 MR. CASPER: Objection: No foundation; beyond	23 communications?
24 the 30(b)(6) designation.	24 A. There would be e-mail, there would be
25 A. I don't know.	25 presentations and word processing documents.
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1 Q. (BY MR. SMART:) Who would know that?	1 Q. What is in the presentations?
2 A. People in the OEM decision.	2 A. Condensed information regarding a given
3 Q. Okay. And what was the price that the OEMs	3 program or a given set of objectives or information that
4 charged the consumers?	4 we needed to provide to the OEMs.
5 MR. CASPER: Objection: No foundation; beyond	5 Q. And where are those documents located?
6 the 30(b)(6) designation.	6 A. They would — If it's e-mail, it would be
7 A. You'd have to ask the OEMs.	7 located in individuals' mailboxes.
8 Q. (BY MR. SMART:) Okay. And is that because	8 Q. And have you looked for any such documents
9 Microsoft has no information concerning what OEMs were	9 prior to your deposition here today?
10 charging to consumers for XP Home licenses during the	10 A. No.
11 Windows Vista Capable program?	11 Q. Do you know of anybody at Microsoft who has?
12 MR. CASPER: Same objection.	12 A. I don't — I'm not aware of any, no.
13 A. To my knowledge, we don't have that	13 Q. Okay. And what presentations exist?
14 information. Additionally, Microsoft does not dictate	14 A. There would be a presentation regarding the —
15 the price by which the OEMs are required to sell to	15 Well, actually, could you be more specific?
16 their end user customers.	16 Q. Yeah, how many presentations did Microsoft
17 Q. (BY MR. SMART:) Sure, but isn't it true that	17 create for its OEMs regarding the Microsoft Windows
18 Microsoft tracks the charges that OEMs charge consumers	18 Vista Capable sticker program or logo program?
19 so that it can have information as to what a particular	19 A. One.
20 product will bring in the marketplace?	20 Q. There's only one presentation?
21 MR. CASPER: Objection: No foundation; beyond	21 A. To my knowledge, yes.
22 the scope of the 30(b)(6) designation.	22 Q. Have — Who did you talk to to determine that
23 A. Not to my knowledge.	23 there was only one presentation?
24 Q. (BY MR. SMART:) Did you ask anybody whether	24 A. Based on my involvement in the implementation
25 or not they did that?	25 of the program, I am aware of one presentation.

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REDACTED PURSUANT TO DKT. NO. 78 AND
MICROSOFT'S CONFIDENTIALITY DESIGNATION

CORRECTION & SIGNATURE PAGE
RE: DIANNE L. KELLEY, ET AL. V. MICROSOFT CORPORATION
WESTERN DISTRICT AT SEATTLE; NO. C07-0475 MJP
CHRISTINE MULLANY SUNDLIE; TAKEN AUGUST 29, 2007

Reported by: JUDIE R. HEAD, CCR No. 3119
I, CHRISTINE MULLANEY SUNDLIE, have read the
within transcript taken AUGUST 29, 2007, and the same is
true and accurate except for any changes and/or
corrections, if any, as follows:

PAGE/LINE CORRECTION REASON

Signed at _____, Washington,

CHRISTINE MULILANEY STUDIO 1E

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Q. Okay. Thank you. I don't have any further questions.

MR. CASPER: Thank you very much.

THE VIDEOGRAPHER: Here ends the deposition of
Christine Mullaney Sundlie. This is the end of tape
two. The time is now 5:15 p.m.

(Debate was adjourned at 5:15 p.m.)

(Depositor is deceased)

I, JULIE R. HEAD, the undersigned Certified Court Reporter and Notary Public, do hereby certify:

That the sworn testimony and/or proceedings, a transcript of which is attached, was given before me at the time and place stated therein; that any and/or all witness(es) were by me duly sworn to testify to the truth; that the sworn testimony and/or proceedings were by me stenographically recorded and transcribed under my supervision, to the best of my ability; that the foregoing transcript contains a full, true, and accurate record of all the sworn testimony and/or proceedings given and occurring at the time and place stated in the transcript; that I am in no way related to any party to the matter, nor to any counsel, nor do I have any financial interest in the event of the case.

WITNESS MY HAND AND SEAL THIS 31st day of August,
2007.

JULIE R. HEAD, CRR, RPR
Certified Court Reporter
CCR No. 3119
Notary Public in and for the
State of Washington, residing in
Snohomish County. Commission
Expires 8-09-11.

32 (Pages 122 to 125)

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